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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,305	09/11/2003	David S. Warren	XSB-001	9356
49675 7590 12/02/2008 THOMAS A. GALLAGHER 107 Barclay Drive STAMFORD, CT 06903				
EXAMINER				
BROWN JR, NATHAN H				
ART UNIT		PAPER NUMBER		
2129				
MAIL DATE		DELIVERY MODE		
12/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/660,305

Applicant(s)

WARREN ET AL.

Examiner

NATHAN H. BROWN JR

Art Unit

2129

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE (3) MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 33-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 33-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Examiner's Detailed Office Action

1. This Office Action is responsive to the communication for application 10/660,305, filed October 1, 2008.
2. Claims 1-30 and 33-38 are pending. Claims 1, 4, 18, and 29 are currently amended. Claims 31 and 32 are cancelled. Claims 33 are previously presented. Claims 2, 3, 5-17, 19-28, and 34-38 are original.
3. After the previous office action, claims 1-31 stood rejected while claims 33-36 were allowed.

Claim Rejections - 35 USC § 112, 1st

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-30 and 33-38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Amended independent claims 1, 4, 18, 29, and 33 recite software "embodied on a computer readable medium". Examiner finds no definition of "a computer readable medium" in the disclosure. None of the claims depending from claims 1, 4, 18, 29, and 33 cure this deficiency, therefore claims 1-30 and 33-38 are considered non-statutory under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

6. Claims 1-30 and 33-38 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Amended independent claims 1, 4, 18, 29, and 33 recite software

"embodied on a computer readable medium". Examiner finds no definition of "a computer readable medium" in the disclosure. None of the claims depending from claims 1, 4, 18, 29, and 33 cure this deficiency. Therefore, the claim(s) contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1-30 and 33-38 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. Amended independent claims 1, 4, 18, 29, and 33 recite software "embodied on a computer readable medium". An executable version of the claimed software being "embodied on a computer readable medium" is considered critical to the invention being operative. However, Examiner finds no definition of "a computer readable medium" in the disclosure.

None of the claims depending from claims 1, 4, 18, 29, and 33 cure this deficiency. Therefore, the disclosed invention is considered inoperative and to therefore lack utility.

The court has said that there's a two-pronged test to determine whether a software of business method process patent is valid: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing. In other words, pure software or business method patents that are neither tied to a specific machine nor change something into a different state are not patentable. Ex parte Bilski, Appeal No. 2007-1130 (Fed. Cir. October 30, 2008).

Response to Arguments

9. Applicant's arguments filed October 1, 2008 have been fully considered.

Rejection of Claims 1-30, 37, and 38 Under 35 U.S.C. §101

Applicant(s) argue(s):

On September 3, 2008, the undersigned sent a proposed amendment to the Examiner by email. The Examiner presented the amendment to his SPE for review and the SPE presented it to their "101 expert". As stated in the Examiner's emails of September 5 and September 10, the proposed amendment overcomes all of the § 101 rejections. This amendment incorporates the amendments made in the proposed

amendment.

...

Claims 4-16, 18-30, 37 and 38 are free of the art. Claim 4 has been amended to independent form including the amendments to claim 1 which overcomes the § 101 rejection. Since independent claim 31 has been canceled, there is no additional fee for making claim 4 independent. Thus, claims 4-16 are allowable. Independent claims 18 and 29 have been amended to overcome the § 101 rejection and, thus, claims 18-30 are allowable.

Examiner responds:

Applicant's arguments are moot based on new grounds of rejection under 35 U.S.C. §101.

Rejection of Claims 1-3 and 17 Under 35 U.S.C. §103(a)

Applicant(s) argue(s):

Claims 1-3 and 17 stand rejected under 35 U.S.C. § 103(a) as obvious over Oracle in view of Collis, further in view of Embley.

Regarding claim 1, the Examiner states that Oracle teaches a collection of software tools (see §Creating OLAP Web Sites, "A Developer's Toolkit, provided with the Express Web Agent...". The Examiner interprets a "Developer's Toolkit" to be a collection of software tools.) The tools are embodied on a computer readable medium. According to the Examiner, the tools are "for acquiring data from diverse sources and/or structuring the data and/or determining similarity of content for the purpose of product information management."

Oracle does teach a "collection of software tools". However, the Oracle Express Web Agent Toolset is designed to create dynamic web pages from structured databases. It teaches nothing about creating structured views of unstructured web data. Claim 1 is directed to quite the opposite of what Oracle teaches. As such, Oracle teaches away from claim 1. The Java Graphs, Java Tables, and HTML

tables shown in Oracle do not structure data from diverse sources, they only restructure data from already structured databases.

The Examiner admits that Oracle does not teach any of the rest of claim 1 and cites Collis for teaching a web agent creator, a web agent, and a web agent manager.

Collins shows a collection of tools but nowhere requires using more than one of these tools. Claim 1 has been amended to require acquiring unstructured data from diverse sources and to structuring the data.

Although Collins uses the word "agent", Collins, like Oracle, is not concerned with "web agents" as that term is used in the instant application, i.e. software designed to mine data from web pages, also sometimes known as a "web crawler", a "web robot" or a "bot". See pages 5, 27-28, and 30-33 of the instant specification. In addition, claim 1 has been amended to state that the web agent has "means for acquiring product information from the world wide web".

The Examiner states that he has interpreted "resources required by the plan" (p. 11 of Collis) as being "products" as that word is used in claim 1. This is not a fair interpretation. Collis defines these resources as facts contained in an agent's resource database. Collis does not teach or suggest that these resources be acquired by the agent from the world wide web. See the sixth bullet on p. 11 of Collis which is reproduced below.

"[A] Resource Database that maintains a list of resources (referred to in this paper as facts) that are owned by and available to the agent. The Resource Database also supports a direct interface to external systems, which allows it to dynamically link to and utilise [sic] proprietary databases."

See also Figure 3.2 on page 10 of Collis and the description above the Figure which states in part "an application-independent generic ZEUS agent that can be customised [sic] for specific applications by imbuing it with problem-specific resources,...". [Emphasis added.] In other words, the agent is provided with the resources before it goes to work. The claimed web agent's job is to crawl the web and collect product information.

Collis discloses a toolset for constructing a set of communicating agents that talk to each other. The architecture for a ZEUS agent shown in Figure 3.2 indicates that a ZEUS agent receives input only from other ZEUS agents through incoming messages and facts from a

structured external database. There is no mention of receiving input from the web. Therefore, a ZEUS agent is not a web agent and the co-ordination Engine is not a web agent manager.

The Examiner admits that neither Oracle nor Collis teach or suggest an ontology- directed classifier, an ontology-directed extractor, or an ontology-directed matcher, and cites Embley for these components.

With regard to the ontology-directed classifier, Embley describes a process for extraction of properties from a product description based on an ontology that defines the nature of those properties. The example shows a car advertisement which can be considered an unstructured product description of a car, (a class in the ontology shown in Figure 2). The keyword proximity process described by Embley is a method for recognizing the properties of a car in that description. Embley teaches nothing about how to recognize that the car advertisement is a description referring to the car class. It needs to be told this by the system user. The ontology-directed classifier according to amended claim 1 includes "means for classifying product information". See pages 6, 46-53, and Fig. 9 of the instant specification. In contrast to the example given by Embley, the claimed invention is able to automatically recognize that the car advertisement is a description referring to the car class.

Examiner responds:

Examiner finds Applicants' arguments persuasive and withdraws the rejection of claims 1-3 and 17 under 35 U.S.C. §103(a).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan H. Brown, Jr. whose telephone number is 571-272- 8632. The examiner can normally be reached on M-F 0830-1700. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Vincent can be reached on 571-272-3080. The fax phone number for the organization where this

application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Nathan H. Brown, Jr./
Examiner, Art Unit 2129
December 2, 2008
/David R Vincent/
Supervisory Patent Examiner, Art Unit 2129